



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/334,574 06/21/99 MASSOD

P 10925/002001

EXAMINER

MMC2/0717

DENIS G MALONEY  
FISH & RICHARDSON PC  
225 FRANKLIN STREET  
BOSTON MA 02110-2804

LEE, D

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

07/17/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/334,574

Applicant(s)

MASSOD, PAUL E.

Examiner

Diane I. Lee

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2001 and 05 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-4, 6-16 and 18-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4, 6-16 and 18-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

Art Unit: 2876

### DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 14 May 2001 and the Supplemental Amendment filed 09 July 2001. Claims 1, 8-9, 13, 20, 24, 26 are amended; claims 5, 17 are canceled; and claims 27-33 are newly added. Currently, claims 1-4, 6-16, and 18-33 are pending in this application.

#### *Claim Objections*

2. Claim 26 is objected to because of the following informalities:

(a) Re claim 26, lines 3: The use of an alternate language such as “**and/or**” are not clear to the Examiner. The limitation must be clear as to where the unique sequential identification being fixed to. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Markman [US 5,794,213-cited by applicant].

Markman discloses a method and apparatus for verifying inventory in group which conducted in a dry cleaning establishment, comprising:

an input mean 42 to record the article information and the total number of articles assigned in a group presented by the customer (see col. 5, lines 23+, col. 10, lines 66+);

Art Unit: 2876

a printer 30 to print tags 32 having unique sequential identification 50 to be affixed to the articles 24 (see figures 1-3). Markman further discloses that articles in grouped order correspond to a transaction, and the machine readable codes 50 having an unique sequential identification on labels 32 including a group identification portion 34 and a sequential number concatenated to the group identification portion (i.e., subsequently numbering the tag with 1 to 4 with same group ID number as shown in figure 3). The tag also shows the total number of articles 52 in its group (see col. 5, lines 24+);

a scanner 70 to scan the machine readable codes 50 on labels 32 (see figure 1);

a computer 72 having a storage media storing a computer program product which includes instructions for causing the computer to verify that articles in a grouped order belong in the grouped order. Wherein the verifying instructions includes a process of examining codes on tags associated with each article in the group to determine that the article belongs in the group. The verification process also includes the process of accessing a database to retrieve the number of articles in the group and matching numbers scanned from the labels on the article associated with the tags. This process teaches the process of retrieving the number of articles in the group and process of matching numbers scanned from its group (see col. 3, lines 65+, col. 5, lines 48+, col. 7, lines 33+, col. 8, lines 19+, 9, lines 45+, col. 11, lines 43+, and figures 1-2);

indicators 92, 94 for indicating to an operator if the scanned unique sequential identification corresponds to an item that belongs in the group and wherein each group of articles are assigned to storage location 84 (see col. 8, lines 4+, col. 10, lines 12+ and figure 1). After the operator scans the tag, the data processor searches its memory 60 to determine whether the particular article is the first article encounters in its group. If the processor determines that the particular article is the first article encounters in its group, the data processor determines the total number of the articles its group (i.e., the total number stored in the database) and selects the storage location 84 that is already assigned by sending a signal to the indicator. This signaling process indicates to the operator visually if the scanned unique sequential

Art Unit: 2876

identification corresponds to an item that belongs in the group (see col. 8, lines 1+ and figure 1-4). If the article is not the first in its group, the data processor selects the correct storage location 84 (i.e., already assigned to previous members of the group) by sending its a signal to the corresponding indicator (i.e., changing the signal indicator). This process of changing signal (i.e., from one storage indicator to another storage indicator) visually indicates to the operator if the scanned unique sequential identification does not correspond to an item that belongs in the group. Rather, it belongs to the previously assigned storage having an article that is already scanned. (see col. 8, lines 23+ and figure 1-4). Markman also utilize different color of LEDs in the indicator to indicate that the count has reached the total numbers and the group has been successfully assembled (see col. 8, lines 30+). This process inherently teaches that the data processor includes an instruction such as subtracting a base (i.e., a total number of articles in a group) from a portion of the unique sequential identification to provide the number of items in the group (see col. 8, lines 30).

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markman in view of Amacher et al. [US 4,716,281-referred as Amacher]. The teachings of Markman have been discussed above.

Although Markman discloses different color of LEDs as indicator to indicate the counting process has reached the total numbers and the groups has been successfully assembled, he does not disclose the

Art Unit: 2876

examining process includes specifically indicating to the operator that the verification process has started, ended successfully, or ended unsuccessfully.

Amacher discloses a system having a plurality notification indicators 98, 100 to indicate the specific operation process to the operator, e.g., a green light indicator 100 for a successful scanning operation, red light indicator 98 for unsuccessful scanning process, and both lights extinguished when the scanning process has started (see col. 1, lines 50+, col. 5, lines 4+, and figure 2).

In view of Amacher's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to include the specific operation indicators in the system of Markman in order to avoid confusion of the operator of the system.

### *Response to Arguments*

7. Applicant's arguments filed 5/18/01 have been fully considered but they are not persuasive. In response to applicant's argument with respect to Markman neither describes nor suggests indicating to an operator if the scanned unique sequential identification does not correspond to an item that belongs in the group (see page 6, lines 17+), the examiner respectfully disagrees. Markman teaches that when the operator scans the tag, the processor searches its memory 60 to determine whether the particular article belongs the first article group or not (see col. 8, lines 4+, col. 10, lines 12+ and figure 1). If the processor determines that the particular article is the first article encountered in its group, the data processor determines the total number of the articles in its group and selects the storage location 84 that is already assigned by sending a signal to the indicator. This signaling process visually indicates to the operator if the scanned unique sequential identification corresponds to an item that belongs in the group (see col. 8, lines 1+ and figure 1-4). If the article is not the first in its group, the data processor selects the correct storage location 84 (i.e., already assigned to previous members of the group) by a signal to the corresponding indicator (i.e., changing the signal indicator). This process of changing signal (i.e., from one storage

Art Unit: 2876

indicator to another storage indicator) visually indicates to the operator if the scanned unique sequential identification does not correspond to an item that belongs in the group.

8. Applicant's arguments with respect to claims 27-33 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Friday from 6:30 AM to 3:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Art Unit: 2876

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Diane I. Lee  
Examiner  
Art Unit 2876

D.L.  
July 5, 2001



KARL D. FRECH  
PRIMARY EXAMINER